



Committee on
State, Federal & International Relations

TEXAS HOUSE OF REPRESENTATIVES
P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910

ID# 14521
mJ

ALVIN ROY GRANOFF
CHAIRMAN

December 12, 1991

The Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RQ-296

DEC 20 91

PHYLLIS McMAHON
CHIEF CLERK
512-463-07

Dear General Morales:

This letter is to request an Attorney General's opinion concerning the proper interpretation of TEXAS LOCAL GOVERNMENT CODE Section 143.057(j), which governs judicial appeals of Hearing Examiner awards issued under the Fire Fighter and Police Officer Civil Service Act, TEXAS LOCAL GOVERNMENT CODE Chapter 143. The question arises because several arbitrators recently have been named as defendants in lawsuits filed by municipalities to overturn arbitration awards they issued as Hearing Examiners.

TLGC Section 143.057(j) states:

"A District Court may hear an appeal of a Hearing Examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means."

My questions concerning interpretation of this section are as follows:

- (1) When the losing party to a Hearing Examiner's award appeals the award under TLGC Section 143.057(j), is it necessary or proper to name the Hearing Examiner who issued the award as a party defendant?
- (2) If it is not necessary or proper to name the Hearing Examiner as a party defendant to such a lawsuit, may a party to such lawsuit subpoena the Hearing Examiner to testify or provide other evidence concerning his/her award?

Thank you for your kind consideration of this request.

Sincerely,

Alvin Roy Granoff

ACCOMPANIED BY ENCLOSURES —
FILED SEPARATELY